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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,534	03/08/2002	William O. Gohlke	95-818	8880

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WASHINGTON, DC 20036-3307

EXAMINER

GORDON, STEPHEN T

ART UNIT PAPER NUMBER

3612

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/092,534

Applicant(s)

GOHLKE, WILLIAM O.

Examiner

Stephen Gordon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address.

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5, 35-42 and 44-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4, 35-39, 41, 42 and 48-51 is/are rejected.
- 7) ☒ Claim(s) 5, 40, and 44-47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/1/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2, 3, 35, 36, 48-49, and 51 as newly amended/presented are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al.

Smith et al teaches a transport container 10 including wall structures as defined, legs 13+, and a flatbed vehicle including rails 61+ with leg receiving recesses – see figure 7 etc.

Re claims 2, the removable sides of the containers read on the "certain wall structures" as recited.

Re claim 3, openings/slots 65 are for fork lift access.

Re claim 35, the bottom portions of the container adjacent the legs define stops as broadly claimed.

Re claim 48, see recesses 22+.

Re claim 49, see the angled guide portions of elements 22+ in figure 1 etc.

Re claim 51, note rail structures 61 etc.

3. Claims 2, 35- 37, and 48-49, as newly amended/presented are rejected under 35 U.S.C. 102(b) as being anticipated by Cena et al.

Cena et al teaches a transport container including wall structures as defined, legs 116+ (fig 9), and a flatbed vehicle.

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Re claims 2, the doors 48+ read on the "certain wall structures" as recited.

Re claim 35, the bottom portions of the container adjacent the legs/surfaces 20 define stops as broadly claimed.

Re claim 48, see figure 8.

Re claim 49, see the angled surfaces 26+ which serve as guides – see figure 6 etc.

4. Claims 2, 36-37, 41-42, and 50 as newly amended/presented are rejected under 35 U.S.C. 102(b) as being anticipated by Husted.

Husted teaches a transport container 30+ including wall structures as defined, legs 62+ received in recesses, and a flatbed vehicle.

Re claims 2, note side 100+.

Re claim 37, see lock 106+.

Re claim 41, see door 100.

Re claim 42, the device comprises a double acting hinge (in as much as the instant device comprises such a hinge).

Re claim 50, flex cover 90 could be removed and used to cover cargo as broadly claimed.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al in view of Rene et al.

Smith et al teaches all of the claimed features as discussed above regarding claim 3 but fails to teach that the fork receiving slots define U-shaped slots as recited.

Rene et al teaches a container including depending U-shaped fork receiving slots 20+.

In order to better guide the lifting forks into place and reduce the potential for damage, it would have been obvious to one of ordinary skill in the art to utilize U-shaped fork slots for the bottoms of the containers of Smith et al in view of the teachings of Rene et al.

7. Claims 38-39 and 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al in view of Frangos.

Regarding claims 38-39, Smith et al teaches all of the claimed features as discussed above regarding claim 2 but fails to teach the pivoting top structure as recited.

Frangos teaches a container including pivoting top panels which open to allow access to the full width of the container top – see figure 3.

In order allow better access to the container if desired for a particular application, it would have been obvious to one of ordinary skill in the art to utilize hinged top panels for the top structure of the containers of Smith et al in view of the teachings of Frangos.

Regarding claims 41-42, Smith et al teaches all of the claimed features as discussed above regarding claim 2 but fails to teach the pivoting front structure as recited.

Frangos teaches a container including pivoting wall panels which open to allow access to the full width of a container side (i.e. the top side in this case) – see figure 3.

In order allow better access to the container if desired for a particular application, it would have been obvious to one of ordinary skill in the art to utilize hinged side wall panels for the side structure of the containers of Smith et al in view of the teachings of Frangos.

Re claim 42, the device comprises a double acting hinge (in as much as the instant device comprises such a hinge).

8. Claims 38-39 and 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cena et al in view of Frangos.

Regarding claims 38-39, Cena et al teaches all of the claimed features as discussed above regarding claim 2 and teaches a single pivoting top panel 44+ but fails to teach multiple pivoting top panels as recited.

Frangos teaches a container including pivoting top panels which open to allow access to the full width of the container top – see figure 3.

In order allow better/fuller access to the container, it would have been obvious to one of ordinary skill in the art to utilize hinged top panels for the top structure of the containers of Cena et al in view of the teachings of Frangos.

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9. Claim 50 is alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Husted.

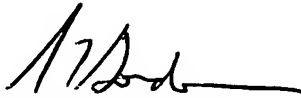
Regarding claim 50, Husted teaches all of the claimed features as discussed above regarding claim 2. If however Husted is not deemed to fairly teach a cover as define, then the following applies.

The examiner takes official notice that cargo covers for surrounding cargo during transport are notoriously well known in the art for protecting cargo during transport.

In order allow better protect cargo, it would have been obvious to one of ordinary skill in the art to utilize a surrounding cargo cover for the transported container cargo of Husted in view of known art practices.

10. Claims 5, 40, and 44-47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (703) 308-2556.


Stephen Gordon
Primary Examiner
Art Unit 3612

stg